MEMORANDUM OF AGREEMENT BETWEEN

THE STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION

AND

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I - NEW ENGLAND

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I. GENERAL

This Memorandum of Agreement ("Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Connecticut's Hazardous Waste program ("State Program") authorized under section 3006 of the Resource Conservation and Recovery Act ("RCRA or "the Act"), 42 U.S.C. 6901 et seq. This Agreement sets forth the manner in which the State Department of Environmental Protection ("DEP" or the "State") and the U.S. Environmental Protection Agency ("EPA") will coordinate the administration and enforcement of the State program and, pending State authorization, EPA's administration of the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). For purposes of this Agreement, references to "RCRA" include HSWA.

This Agreement is entered into by the Commissioner of the Connecticut Department of Environmental Protection, ("Commissioner") and the Regional Administrator, EPA New England ("Regional Administrator").

DEP is the agency which will implement the State program and which will handle coordination and communication between the State and EPA.

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271. This Agreement does not create any rights in persons not parties to this Agreement (e.g. any departure from this Agreement shall not be a defense for regulated parties in violation of environmental requirements).

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the Commissioner and the Regional Administrator. This Agreement will remain in effect until such time as State program authorization is withdrawn or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement shall be executed by the Commissioner and the Regional Administrator and shall become effective at the time the State's updated authorization takes effect, which shall

be the date specified in the Federal Register notice of the Regional Administrator's decision to grant authorization to the State. This Agreement shall supersede the Agreement dated January 10, 1991.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its boundaries except in Indian country which includes the lands of the Mohegan Nation and the Mashantucket Pequot Tribal Nation or other nations that are recognized by the federal department in charge of indian affairs during the time that this agreement is in force. EPA retains its responsibility to ensure full and faithful execution of the requirements of RCRA, including full oversight and enforcement authority, and including direct implementation of HSWA provisions for which the State is not authorized to act.

Section 3006(g) of RCRA provides that hazardous waste requirements and prohibitions promulgated pursuant to HSWA are applicable in authorized States at the same time that they are applicable in unauthorized States. While EPA retains responsibility for the direct implementation of those provisions of HSWA which the State is not authorized to implement, it is the intention of EPA and the State to coordinate regarding the implementation of such provisions to the greatest degree possible.

The State and EPA agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage the State and EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. EPA will conduct oversight through written reporting requirements, and through overview of permits, corrective action, compliance and enforcement and progress under the Performance Partnership Agreements (PPA) or future such agreements.

The State will seek to identify and advance efforts and implement directives that ensure uniform treatment of all Connecticut citizens with respect to matters involving public health and the environment. Accordingly, the State shall conduct its hazardous waste management program, policies and activities in a manner that ensures that such program, policies and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies and activities, because of their race, color, national origin or economic status in accordance with the State’s environmental equity policy.

III. STATE PROGRAM REVIEW

A. General

The Regional Administrator will assess the State's administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. This assessment will be accomplished by EPA review of information submitted by the State in accordance with this Agreement and the PPA, and by overview of permits, corrective action, and compliance and enforcement.

The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State. The State agrees to allow EPA access to all files and other information requested by the Regional Administrator, or his or her designee, and deemed necessary by EPA for reviewing State program administration and enforcement.

EPA may conduct periodic program reviews with the state which may be scheduled as agreed to by the State and EPA. Such program review meetings between the State and EPA will be scheduled at reasonable intervals at least annually to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns, including timeliness, appropriateness and effectiveness of program activities. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared by EPA. Such reviews may consist of file and document reviews and discussions with staff and managers, and may take place in either agency office with communications via telephone, email or in person. EPA agrees to direct questions and point out actual or potential deficiencies, if found, to management and to the project staff or program coordinators. The State will notify EPA of actions it intends to take to correct any deficiencies identified by EPA within 30 days of EPA's notification. Any further followup will be determined on a case-by-case basis. During this process, the State and EPA agree that such review will be conducted in a cooperative manner with the goal of providing constructive improvement in State/EPA coordination and program performance. EPA will maintain an ongoing dialog about program issues.

B. Identification of Priority Activities

The State and EPA agree to develop, on an annual basis (or, if agreed to be more appropriate, on a biennial basis) as a part of the State PPA, criteria for priority activities including activities regarding handlers of hazardous waste. These criteria will be based on the relevant goals of the Government Performance Results Act (GPRA) other EPA guidance documents as may be appropriate, state priorities and DEP's strategic plan, and will serve to identify those activities which should receive the highest priority during the grant period. Examples of activities which will be considered high priority will include, but not be limited to, facilities to be inspected, facilities to be permitted, and enforcement against facilities with known or suspected contamination which poses a risk to human health or the environment.

EPA and the State recognize that funding and staff resources will play an important role in determining priorities and commitments under the PPA. In addition, commitments under the PPA may need to be re-negotiated should either agency propose a significant change in priorities or resource availability during the term of the PPA.

IV. INFORMATION SHARING

A. General

As the national hazardous waste program continues to mature, the respective roles and responsibilities in this State/Federal partnership may change. As the respective information needs of the State and EPA evolve, changes to this section of the Agreement may be appropriate. Periodically, the State and EPA will carefully examine the following information sharing provisions for needed revision.

Unless otherwise agreed upon, the State will send information and reports relating to enforcement to the Manager of the RCRA Enforcement Technical Unit (mail code SER); information relating to Corrective Action to the Manager of the RCRA Corrective Action Unit (mail code HBT); and information relating to Permitting, Authorization and Information Management to the manager of the Hazardous Waste Unit (mail code CHW). The mailing address is as follows:

US EPA, Region 1
1 Congress Street - Suite 1100
Boston, MA 02114-2023

B. EPA

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide training and general technical guidance to the State. EPA will share with the State any national reports developed by EPA from the data submitted through State reporting requirements.

2. The State and EPA agree, when appropriate, to a joint permitting process (see Section V.D. of the Agreement). Under this process, EPA and the State will establish policies and procedures by which each will pursue their respective and/or joint responsibilities under HSWA. EPA and the State agree to the sharing of information for the purpose of joint permitting. Specifically included shall be the procedures for sharing and coordinating the exchange of information on the following:

   a. Part A and Part B permit applications, whether received prior to the effective date of this Agreement or subsequent to the effective date of this Agreement and whether first received by the State or EPA;

   b. Such other information necessary to support the foregoing information;

c. Copies of draft permits, proposed permit modifications, public notices;

d. Copies of final permits and permit modifications; and

e. Notices of permit denials.

3. EPA agrees to make copies of any reports and data resulting from compliance inspections conducted by EPA, except for enforcement confidential criminal program inspections, available to the State within response time guidelines established by EPA's "Hazardous Waste Civil Enforcement Response Policy." If the time guideline cannot be met for a particular inspection, EPA agrees to notify the State before the designated amount of time elapses.

4. As resources allow, EPA agrees to provide technical assistance to the state upon request.

5. As resources allow, EPA agrees to provide training to the sate upon request.

6. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2, as described in F below.

C. State

1. The State agrees to inform the Regional Administrator of any proposed program changes which would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), and resource levels (i.e., available or budgeted personnel and funds). Program changes also include legal changes that would affect compliance monitoring and enforcement, such as privileges and immunities laws. The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. EPA agrees to support the State with timely review of proposed State legislation that might have a significant potential to affect the authorized hazardous waste program.

2. Through development of the PPA, EPA and the State will agree on the type and frequency of reports the State will make in order for EPA to maintain oversight of the implementation of the State's authorized program. Such reporting shall include, but not be limited to, the following:

a. Compliance monitoring and enforcement information, and information indicating the status of the State's permitting, closure, post-closure, and corrective action activities.

b. Various reports designed to accurately describe the status of the State's authorized program including biennial reports summarizing the quantities and types of hazardous waste generated, transported, treated, stored and disposed in the State.

3. Where the State Program involves the granting of variances under section 22a-449(c)-108(a)(1) of the Regulations of Connecticut State Agencies ("RCSA") or waivers under section

22a-449(c)-105(a)(1) RCSA, the State agrees to provide EPA with a copy of each State variance or waiver at the time it is granted, including any exemptions granted under sections 22a-449(c)-100 through 119 RCSA relevant to authorized portions of the State program. Variances and waivers shall be granted consistent with Federal requirements. To ensure such consistency, the State shall consult with EPA as appropriate prior to granting variances and waivers.

4. EPA will continue to process rulemaking petitions including variances, waivers and delistings under 40 CFR 260, Subpart C. However, EPA agrees to include the State in pre-petition discussions with petitioners, and EPA will notify the State within a reasonable time of receiving a petition which affects a specific facility in the State. The Commissioner, or his or her designee, will inform EPA in writing of the State's intent to consult with EPA in its review and evaluation of the petition. Rulemaking petitioners in the State will submit petitions to the Regional Administrator. In the event that these petitions are submitted to the State in lieu of EPA, the State will retain a copy and immediately forward the petition to EPA.

Should EPA require the assistance of the State in the review of the petition, this work sharing activity will be negotiated at the time the PPA is being negotiated, or subsequently as an additional element to be added to or substituted into the work plan.

EPA will notify the State prior to publishing a proposed delisting determination in the Federal Register, and when the final determination is made. A copy of the Federal Register Notice announcing EPA s tentative determination will be provided to the State. EPA will notify the State if any public comments are received on EPA s tentative determination and provide copies if requested. As necessary, and if requested, EPA agrees to consult with the State in the development of any response to comments.

A copy of EPA s final determination on the petition, as published in the Federal Register, will be provided to the State. If the State concurs with an affirmative EPA decision on a delisting petition, the Commissioner agrees to follow appropriate state procedures to officially incorporate EPA s rulemaking decision into the State s program.

5. So that EPA can provide overview of State permits, the State agrees to provide EPA with copies of draft and final State permits, and draft and final Class 2 and Class 3 State permit modifications. The State program agrees to provide this information with sufficient time prior to the public comment period to allow EPA the opportunity to identify and provide comment on any significant EPA concerns before the comment period opens.

6. The State agrees to provide EPA with copies of reports and data resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies.

7. The State agrees to provide any pertinent information requested by the Regional Administrator, or his or her designee, within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities.

D. Notification

The State is responsible for receiving, processing, and verifying information on all notification forms. So that EPA can maintain a national inventory of all hazardous waste

handlers, the State agrees to enter into RCRAInfo, in a timely manner, all data received from new hazardous waste generators, transporters and treatment, storage and disposal facilities in the State, and any updates or changes in previously submitted notification information.

EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRAInfo. If the applicant submits a Site ID form or a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to the State for the assignment of an I.D. number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number. There is an exception to this protocol relating to non-notifiers identified by EPA RCRA inspectors. In such instances, EPA will assign a "non-notifier" ID number using limited information on the facility provided by the inspector. Such information will be entered into RCRAInfo and provided to the state within 30 days.

E. RCRA Data Management

1. The State agrees to use, maintain, and enter data into the national RCRA data management systems (presently RCRAInfo). The State currently enters only notification and compliance monitoring and enforcement data while EPA enters permitting and corrective action data. This arrangement is temporary, however, as EPA is transitioning the data entry function for state activities to the states. A decision as to when the State will assume these data entry responsibilities will be made during FY2004.

2. The State is responsible for the correctness of the data it enters. The State will correct any State data errors in the RCRAInfo edit reports in a timely manner. The State will provide all core data to RCRAInfo, as defined by EPA Headquarters, plus non-core data as agreed to with Region I program offices. EPA is responsible for the correctness of the data it enters, and will correct any data errors that EPA has created in a timely manner.

3. The State will run data assessment reports provided by EPA on the Region I RCRARep Reports menu at least once a quarter and make indicated corrections promptly.

4. The State will collect Biennial Reporting data and provide the data to EPA for loading into RCRAInfo according to the schedule promulgated by EPA Headquarters, and the schedule in the PPA.

5. EPA will inform the State promptly when changes are made to RCRAInfo that might affect the State's implementation of RCRAInfo. EPA will assist the State in RCRAInfo consulting and training as resources allow.

6. EPA will help the State maximize usefulness of RCRAInfo data by enhancing existing reports or writing new report programs to fit specifications of the State. These reports will be found in the Region I reporting tool, RCRARep.

F. Site Visits

EPA is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA determines that it needs to obtain such information, EPA will first seek to gain this information from the States. The State agrees to supply EPA with this information if readily available and as resources allow. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven days advance notice). EPA will share with the State any national reports developed by EPA as a result of such information collection.

G. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the other party(ies) to this Agreement of the existence of such situation.

CTDEP Emergency Spill Response: 1-860-424-3338 or 3333

National Response Center: 1-800-424-8802

H. Confidentiality

1. Any information obtained or used in the administration of the State program shall be made available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing such information. Any information obtained from the State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2, Public Information.

2. EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2 (including approval to receive confidential information pursuant to 40 CFR 2.305(h)(i) and (ii)), EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State. The State will handle such information consistent with its laws, which will be reviewed by EPA pursuant to 40 CFR 2.305(h)(i) and (ii) prior to furnishing the State confidential information.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon authorization of the State program, EPA will suspend issuance of Federal permits (or portions thereof) for requirements applicable to hazardous waste treatment, storage, and

disposal facilities for which the State is being authorized. EPA will continue to issue new RCRA permits (or portions thereof) imposing requirements mandated by HSWA that are not covered by the State's authorized program, until the State receives final authorization for equivalent and consistent State standards.

As the State receives authorization for additional provisions of HSWA, EPA will suspend issuance of Federal permits for those provisions. EPA will also transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this Agreement.

Whenever EPA adds HSWA permitting standards for processes not previously covered by Federal regulations, EPA will process and enforce RCRA permits (or portions of permits) in the State in the new areas until the State receives final authorization for them.

B. EPA Overview of State Permits

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the State and EPA in the PPA.

Although EPA and the State will attempt to resolve any outstanding EPA concerns prior to the public comment period, EPA may comment in writing on any draft permit or proposed permit modification, which is undergoing public comment, whether or not EPA commented on the permit application or prior drafts of the permit or permit modification. EPA will provide such written comment within 45 days of EPA's receipt of the draft permit or proposed permit modification which is undergoing public comment. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

a. a statement of the reasons for the comment (including the section of the law or regulations that supports the comment),

b. the actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by EPA) and

c. for any comment that is significant enough for EPA to take action against the holder of the permit after issuance under section 3008 of RCRA (refer to the Section VII. A.), a statement that it is necessary for a condition(s) to be included in the permit to implement approved State program requirements, and that if the condition(s) is/are not included in the permit, EPA may take action under section 3008 of RCRA against the permit holder for not complying with such condition(s).

EPA shall also send a copy of its written comments to the applicant.

EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

The State and EPA agree to meet or confer whenever necessary to resolve a disagreement

between their staffs on the terms of any RCRA permit to be issued by the State.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit in accordance with the procedures of 40 CFR Part 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits which include requirements contained in the authorized provisions of the State's program for hazardous waste treatment, storage and disposal facilities. The State will do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all other applicable requirements, and the State's Program Description.

The State agrees to issue, modify and reissue all permits contained in the authorized portions of the State's program in accordance with section 22a-449(c)-110 RCSA and to include as permit conditions all applicable requirements of the Connecticut Hazardous Waste Management Regulations. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization.

The State agrees that any compliance schedules contained in permits it issues will require compliance with applicable standards as soon as possible.

The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will satisfy or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

D. Joint Permitting Process

Pursuant to section 3006(g)(1), and in accordance with the HSWA, EPA has the authority to issue or deny permits (or portions of permits) which impose requirements and prohibitions mandated by HSWA. EPA will retain such authority for facilities in Connecticut until the State amends its program to reflect those requirements and prohibitions and receives authorization for those amendments.

EPA and the State will establish, when appropriate in accordance with section 3006(c)(3) of RCRA, a joint permitting process for the issuance of RCRA permits in Connecticut. The details and roles and responsibilities of EPA and the State for joint permitting shall be incorporated into a separate Joint Permitting Agreement which will be developed should the need arise for EPA and the State to issue a joint permit. Once developed, the details of the joint permitting process Agreement shall be reviewed and revised as often as necessary to assure its continued appropriateness.

Upon authorization of the State for any of the provisions of HSWA, the specifics of the Joint Permitting Agreement shall be amended to reflect the authorization.

VI. CORRECTIVE ACTION

A. General

The State and EPA agree to conduct the RCRA Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. EPA and the State will, to the extent practicable:

1. maximize the collective resources of both EPA and the State to achieve the waste site cleanup goals of both agencies.

2. embrace flexible, practical, results-based approaches that focus on control of human exposure, control of the migration of contaminated groundwater, beneficial reuse, and final cleanup;

3. provide ready public access to information and meaningful opportunities for public involvement in the cleanup process;

4. foster a culture of innovation, creativity, communication and technical expertise focused on accelerating cleanups and meeting program goals;

5. carefully consider key program guidance (and any updates) in conducting the RCRA Corrective Action Program; and

6. support each other with any special initiatives such as those that pertain to the Government Performance and Results Act (GPRA) or on particular watersheds or media.

EPA will assist the State with all aspects of the RCRA cleanup program and support its efforts to conduct faster, focused and more flexible RCRA cleanups. The State agrees to work cooperatively with EPA in achieving current and future GPRA goals for Corrective Action, the details of which will be established in PPAs. The State and EPA will establish Corrective Action program coordinators who will be the primary points of contact between the two agencies. The coordinators for the State and EPA will strive to meet on no less than a monthly basis (with associated managers or other staff, as appropriate) to discuss program and/or facility-specific progress or issues. These meetings will be either in person or by conference call.

B. Transition and Coordination

1. Coordination Plan

EPA and the State will implement short and long-term facility-specific objectives in accordance with the Corrective Action Universe Coordination Plan (coordination plan) appended to this Memorandum of Agreement (MOA). The coordination plan lists each facility in Connecticut for which there is a federal RCRA Corrective Action interest (i.e. will include permit-track, interim status disposal facilities, and other interim status facilities), its priority, the short and long term objectives for the facility, the lead agency, the mechanism (i.e. the

agreement or directive upon which Corrective Action objectives are being achieved), target dates and the point at which the lead agency will change (if at all). The coordination plan will be updated as needed, but no less than on an annual basis, through the coordinators described above. The schedule for annual updates may be set to conform with deadlines for reporting information to EPA Headquarters or for meeting deadlines associated with future PPAs and associated grants.

The State and EPA will attempt to meet on at least a monthly basis to discuss program progress or issues. These meetings will be either in person or by conference call.

2. Designation of Lead and Support Agencies

The State and EPA agree to utilize the concept of lead and support agencies. The lead agency will have responsibility for overall project management at a Corrective Action site. At a minimum, the lead agency will take responsibility for setting deadlines, coordinating correspondence (e.g. comment letters), arranging meetings or negotiation sessions, coordinating field oversight, coordinating public involvement, making remedy decisions, responding to the press, and reporting milestones to program databases. Alternatively, the support agency could assist the lead agency on any or all of the lead agency responsibilities. Typical examples of support agency functions could include hydrogeological or ecological risk technical support, preparing fact sheets for community involvement, performing field oversight for a specific sampling event, and commenting on work products submitted by facilities or their consultants.

It is the mutual goal of both agencies to have the State eventually serve as the lead agency for all disposal facilities in Connecticut. However, the transition to do so is expected to be a multi-year process and many facilities may transition from EPA-lead to State-lead during the latter phases of Corrective Action (e.g. during the operations and maintenance phase of remediation or when continuation of institutional controls are the only remaining long-term requirement).

The designation of lead agency will be made through mutual agreement of both agencies. The following guidelines will be considered when determining the lead agency, although exceptions are expected to occur.

a. The State generally will serve as the lead agency for all solid waste landfills that contain hazardous waste units.

b. The State generally will serve as the lead agency at all RCRA permitted facilities when the permit is being issued, reissued or modified.

c. The State generally will be considered the lead agency at disposal facilities that fall within the regulatory program of section 22a-449(c)-105(h) RCSA where EPA has no other formal mechanism in place.

d. The State generally will be the lead agency at interim status treatment and/or storage facilities that fall within the property transfer program and where EPA has no other formal mechanism in place.

e. EPA generally will be the lead agency at interim status treatment and/or

storage facilities that do not have a state legal mechanism (e.g. state order or property transfer commitment) in place.

f. EPA generally will continue to act as the lead agency at facilities where it has a legally based mechanism in place and the State has no legal mechanism (other than section 22a-449(c)-105(h) RCSA) in place. In such cases the transition to the State would occur when full compliance with the legally based mechanism has been acknowledged by EPA or the mechanism has been terminated (e.g. a permit expires or EPA terminates an order).

g. EPA lead sites generally will become DEP lead sits after remedy decisions are made.

h. Facilities that have both a state and a federal legal mechanism in place will be determined on a case-by-case basis.

i. As appropriate, EPA will serve as the lead agency to achieve short-term objectives with clearly definable endpoints (e.g. implementation of an interim measure, achievement of an environmental indicator).

The State or EPA can request that the other agency take over the lead at a particular site. Such requests can be for any reason and need not comply with the guidelines above.

C. Roles and Responsibilities of *Lead* and *Support* Agencies

It is the responsibility of the lead agency to determine the appropriate mechanism for achieving Corrective Action goals. The lead agency will consider the views of the support agency when making decisions regarding its choice of A Corrective Action mechanism.

The agencies will make every effort to correspond with facilities through the lead agency. Direct correspondence (e.g. phone, e-mail, regular mail, facsimile) between facilities and the support agency will be closely coordinated with the lead agency in order to minimize confusion. The agencies recognize that the support agency may have the same level of interest in a facility as the lead agency. Thus, the lead agency will make every effort to: 1) inform the support agency of activities underway on projects such as field work, meetings, decisions, correspondence development, etc.; 2) provide advance notice of Corrective Action decisions and will consider the support agency's comments in final Corrective Action decisions; 3) include any and all of the input of the support agency through meetings, correspondence, etc.; 4) copy the support agency on all correspondence (e.g. approvals of reports/work plans, disapproval comment letters, permit modifications, permits and orders, statements of basis for proposed remedy and final remedy decisions); 5) make certain that facilities copy the support agencies with all deliverables and correspondence; and 6) follow-up with facilities on the support agency's input.

The support agency will provide specific functions in accordance with the schedule set out by the lead agency. The support agency will notify the lead agency to request extensions. The lead agency will make every effort to accommodate the support agency's input and requests but may proceed without input from the support agency in order to advance projects in a timely manner. The support agency does not relinquish any authority while in the support role. The lead agency will make every effort to achieve environmental outputs sought by the support

agency as if the support agency were utilizing its authority in a lead role.

For all interim status land disposal facilities, the State has the responsibility for determining when interim status should be terminated (e.g., based on the completion of all closure and corrective action obligations such that no permit is necessary). However, the two agencies will cooperate and coordinate to ensure that both are in agreement that all necessary cleanup steps have occurred, prior to the termination of a facility's interim status. To ensure that such coordination occurs, the State agrees to notify EPA in writing at least 60 days prior to starting the public comment process to terminate a facility's interim status.

D. Use of Licensed Environmental Professionals at Corrective Action Sites

EPA and the State agree that Licensed Environmental Professionals (LEPs) are one tool that the State may utilize at some interim status disposal facilities in its role as the lead agency within certain boundaries outlined below. LEPs may be delegated the day-to-day decisions regarding site characterization and remediation, subject to state oversight. When the State designates that a project can be overseen by a LEP it does not mean that the State has no further involvement with that project. In fact, the State will maintain the ability to use its enforcement and permit authority to require actions at any facility at which a LEP fails to perform adequately.

The State agrees to remain involved at sites at which LEPs have been assigned in order to: 1) answer questions regarding how an investigation or clean-up should proceed or how a State regulation should be interpreted, 2) make certain that adequate public involvement occurs during the remedy decision and Corrective Action completion phases, and 3) provide a check of the adequacy of LEP work regarding Corrective Action completion, including following the procedures in section 22a-449(c)-110(a)(2)(RR) RCSA prior to removing any disposal facilities from interim status.

The State will consider the following when determining whether an LEP will be utilized at a RCRA Corrective Action facility:

1. The potential risk to human health and the environment posed by any discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste on the parcel;
2. The degree of environmental investigation at the parcel;
3. The proximity of the parcel to significant natural resources;
4. The character of the land uses surrounding the parcel;
5. The complexity of the environmental condition of the parcel; and
6. Any other factor the commissioner deems relevant, including, but not limited to:
    a. Status of any enforcement actions;
    b. Potential for impact to sensitive receptors in the area, (especially private or public drinking water supplies);
    c. Interests of other State divisions involved with the site;
    d. Compliance history of party certifying to investigate and remediate;
    e. Likelihood that extensive State involvement will be needed while reviewing alternative approaches under the State's Remediation Standard Regulations (RSRs) or Covenant-Not-To-Sue; and
    f. Time critical issues regarding site redevelopment.

Facilities at which LEPs have been assigned are required to submit to the State- progress reports and all technical documents, including investigation reports and remedial action plans. The State agrees to play an important role in ensuring that adequate public participation takes place. LEPs must obtain the Commissioner's approval before a remedial approach is chosen that requires a subjective decision, such as an engineered control variance.

In order to determine that clean-ups are valid, the State agrees to review the LEP verifications at each land disposal facility in accordance with section 22a-449(c)-110(a)(2)(RR) RCSA. Schedules for conducting such reviews will be agreed upon in the PPAs. These reviews will be conducted prior to terminating the interim status of a facility. For facilities where corrective action has been completed without the need for ongoing controls, these reviews will occur in connection with proceedings to determine that no permits are necessary. For facilities which require long term operation and maintenance, and monitoring (e.g., closed landfills), these reviews will be conducted in connection with the issuance of post closure permits requiring the long term operation and maintenance, and monitoring. For facilities which require institutional controls the State will make clear that any termination of interim status at such facilities is based on the facility remaining in compliance with the institutional controls. For any facility which undergoes remediation under Conn. Gen Stat. §22a-133y (a voluntary program), the State will initiate review of a licensed environmental professional's remedial action report within sixty (60) days of submittal of such report, to determine whether further remediation is necessary.

The State also will ascertain those sites that should be audited in greater detail. The State will analyze the results of its audits to determine the circumstances where LEPs need better guidance and training. Taking disciplinary action against a LEP is also an option that the State may exercise.

E. Remediation Standards

The State agrees that all remedies it selects or approves (including remedies overseen by LEPs) will meet the following threshold criteria:

1. Protect human health and the environment,
2. Achieve media clean-up objectives including the state's RSRs, and
3. Control sources of releases to reduce or eliminate further releases.

EPA and the State agree that the State's RSRs, sections 22a-133k-1 through 3 RCSA, will be the primary tool for determining whether the above criteria have been met. The RSRs contain numeric standards for the remediation of soil and groundwater. EPA has reviewed these numeric standards and determined that they generally meet the federal requirement for protection of human health and the environment.

In addition, the RSRs contain "Omnibus" provisions (section 22a-133k-2(i) RCSA) that allow the State to require additional measures as necessary to protect human health and the environment. The State agrees to utilize this authority as necessary to meet the federal requirements for protection of human health and the environment. In particular, the State will utilize this authority to require site-specific cleanup criteria for lead in soil, to account for different exposure assumptions for children and pregnant women, at all sites subject to RCRA corrective action. The State will follow EPA guidance for using a default residential direct

exposure criterion of 400 mg/kg and expects to follow future changes to EPA's guidance.

In addition, the State agrees to utilize its Omnibus authority to require that an ecological risk assessment will be completed at all sites subject to RCRA corrective action. The ecological risk assessment will evaluate the potential for ecological receptors to be exposed to contaminants, and will ensure that remedial goals and objectives address protection of those receptors from existing or potential contaminant exposures. The State plans to develop guidance on how to conduct ecological risk assessments, which will be included in the Appendix of the Draft Site Characterization Guidance.

In addition, the State agrees to require that a Quality Assurance Project Plan ("QAPP") will be developed at all sites subject to RCRA corrective action. The QAPPs will be prepared in accordance with the document titled: Quality Assurance Guidance for Conducting Brownfields Site Assessments, U.S. Environmental Protection Agency OSWER Directive No. 9230.0-83P, in order to ensure that data collected is of sufficient quality to make decisions regarding the investigation and remediation of the site.

In particular, the QAPPs will meet the following requirements. First, while a QAPP may reference other documents which contain pertinent information relevant to a required element of a QAPP, all the documents must be submitted to the State and publicly available. Second, QAPPs must define data quality objectives to support remedial decisions and from these, design the appropriate quality assurance/quality control tools. As an aspect of quality control, the QAPP must define the level of verification and validation required to meet the objectives. Note that the determination that data are of sufficient quality can be routinely achieved by validation conducted by LEPs. Data validation by the State or an independent third party contracted by the facility is not necessarily required.

Finally, the State agrees to utilize its Omnibus authority to require site specific risk assessments at RCRA corrective action sites, when necessary to protect human health and the environment. The RSRs provide risk based remediation criteria, which are based on conservative assumptions and thus are generally highly protective. However, there are unusual situations (including those listed in the Program Description) where the RSRs' model for formulating the risk is different from a site-specific condition. These situations may trigger the need for site-specific risk assessments.

For sites where review and approval of the remediation will be conducted by the State itself, the State will utilize its Omnibus authority, as needed, as part of its ongoing oversight of the remediation. For sites where day to day oversight of the remediation is delegated to LEPs, the State will utilize its Omnibus authority as follows. It will timely notify the facility in writing of any supplemental requirements. As resources allow, the state also plans to provide training to LEPs, making them aware of the need to identify and notify the State about unusual risk situations and then to address them in coordination with the State.

In order to remain in compliance with EPA state authorization requirements including 40 CFR 271.1(g), the State needs to maintain protective remediation standards. The State agrees to timely notify EPA about any changes planned to be made to the RSRs, prior to proposing such changes and taking public comment. EPA agrees to timely notify the State if it believes that any changes would result in the RSRs no longer meeting the federal requirement for protection of human health and the environment.

F. Approach to Non-Land Disposal Facilities

Federal corrective action obligations apply not only to permitted facilities (i.e., active TSDFs and former land disposal facilities required to seek post-closure permits), but also to certain former non-land disposal facilities which do not need permits. In Connecticut, the affected facilities are mostly container storage areas and tanks. As permit applicants initially, these facilities acquired site wide corrective action obligations that must be met. However, most of these facilities intend to close their treatment and storage units in accordance with the closure by removal or decontamination (clean closure) requirements of 40 CFR Part 264, and thus will not need an operating permit or a post-closure permit.[1] Thus in the federal program these facilities are subject to corrective action through Orders issued under RCRA section 3008(h) rather than through permits. Thus such facilities are not included within the authorization when EPA authorizes a state to operate the corrective action permit program.

However, the State is seeking to operate the entire corrective action program for all facilities regardless of permit status [currently permitted facilities, facilities awaiting permit issuance, and facilities that no longer need a permit], whether or not the facilities are within the corrective action universe included in the EPA authorization (except for sites where EPA will be the lead agency, as discussed in section VI.B. above). The state's goal is to simplify and coordinate the remedial requirements of all facilities subject to corrective action in Connecticut, so as to avoid having facilities subject to separate cleanup requirements from both the State and EPA. EPA shares the goal of supporting a One Cleanup approach to the maximum appropriate extent.

While the State's regulations compelling implementation of corrective action at interim status land disposal facilities do not apply to non-land disposal facilities, many of these facilities nevertheless have or will implement corrective action under the state's Property Transfer Act, Conn. Gen. Stat. §22a-134 et seq. Facilities undergoing corrective action under the Property Transfer Act must follow the same investigative procedures and must meet the same clean-up endpoints as facilities subject to the land-disposal facilities regulation, in accordance with the State's RSRs. As set forth in section VI. E. of this Memorandum of Agreement, above, the State is committing to utilize its Omnibus authority in the RSRs as necessary to ensure that the federal corrective action standard of protection of human health and the environment is met at all corrective action sites. The State will do this for all facilities subject to federal corrective action requirements whether or not they are within the authorized program, including the non-land disposal facilities. As set forth in section VI. D. of this Memorandum of Agreement above, the State also is committing to ensure that there is governmental oversight and public comment regarding work carried out under the direction of Licensed Environmental Professionals at corrective action sites. In particular, the State is committing to following the government oversight and public comment procedures in section 22a-449(c)-110(a)(2)(RR) RCSA prior to removing any disposal facilities from interim status. The State will follow the same government oversight and public comment procedures prior to removing any non-disposal facilities from interim status. The State will do this by requiring that mail notice be given to all persons on a facility mailing list, in addition to following the procedures specified in Conn. Gen. Stats. 22a-6(h). Note that this government oversight and public comment that will occur at the completion

[1] If a facility is unable to clean close, it will be subject to the post closure permit requirements for land disposal units, and thus will be covered under the formally authorized corrective action program.

of the corrective action process is in addition to government oversight and public comment that occurs at the time of remedy selection, under both the State's regulations governing corrective action at disposal facilities and the Transfer Act. See section 22a-449(c)-105(h) RCSA; Conn.Gen. Stat. §22a-134a(i).

EPA Region I has reviewed and evaluated the State's Property Transfer Act program, and has determined that if it is implemented in accordance with the commitments made by the State above, it should result in cleanups that meet the Corrective Action objectives stated in section VI. A. of this Memorandum of Agreement, above. In particular, Region I has concluded that:

a. Cleanups at non-disposal facilities under the planned program should result in timely and appropriate response actions that protect human health and the environment, offer adequate opportunity for meaningful public involvement, and ensure adequate governmental oversight and the availability of technical assistance;

b. The planned program will use written mechanisms to establish a plan and schedule for remediation as well as to determine that the approved response action has been completed;

c. The State has adequate enforcement resources and authority to ensure completion of response actions if a party subject to the Property Transfer Act fails or refuses to complete the required actions;

d. The planned program will use the same StateRSRs risk-based standards to manage contaminated soil, groundwater, and other environmental contamination, as the authorized program. These standards are based on human and environmental risk factors, current and future land use, and issues developed from community participation.

Following authorization of the State's corrective action program, EPA will retain all of its inspection and enforcement rights and authorities (e.g., under sections 3008(h), 3013 and 7003 of RCRA) with respect to the non-disposal facilities subject to this MOA agreement, just as it retains these inspection and enforcement rights and authorities with respect to facilities covered by the authorized program. However, generally EPA Region I does not anticipate taking action pursuant to its RCRA corrective action authorities at non-disposal facilities undergoing corrective action under the planned Transfer Act program described above, except where one or more of the following circumstances apply:

1. Region I determines that the site may pose an imminent and substantial endangerment to public health, welfare or the environment;

2. The facility owner or operator fails to properly implement a course of action required by the Transfer Act/the State;

3. The cleanup or final review of the adequacy of the cleanup does not occur expeditiously;

4. The facility is subject to an existing federal administrative or judicial order for cleanup; or, prior of entry of the facility into a cleanup under the Transfer Act program, Region I begins preparation of an enforcement or response action regarding the facility, pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or RCRA;

5. The facility is listed on, or proposed for listing on EPA's National Priorities List (NPL); or is at a site where Region I has submitted a Hazard Ranking Scoring package to EPA Headquarters, unless the site is eligible for a deferral under the RCRA/CERCLA deferral policy;

6. The exercise of federal authority is necessary for Region I to meet its legal responsibilities; or

7. The State requests that EPA take investigation and/or remediation activities at the facility.

Region I will consult with the State and provide the State, where practicable and appropriate, an opportunity to take appropriate action within a timely manner, prior to making a determination that federal action is necessary at a state lead corrective action facility.

The State will provide information to and consult with EPA regarding sites undergoing corrective action under the Transfer Act program described above, to the same extent as for sites covered by the authorized program, as described in section VI. C. of this Memorandum of Agreement, above. If and when the State determines that all RCRA closure and corrective action requirements have been met at a non-land disposal facility, the State intends to use its base program authority to determine that a permit is not necessary and thus terminate the facility's interim status. The State will notify EPA in writing at least 60 days prior to starting the public comment process to terminate a facility's interim status, in order to enable EPA to timely raise any concerns.

This agreement by EPA to generally defer to the State Transfer Act program described above does not cover cleanups under other State programs. However, EPA and State agree to cooperate to avoid duplication of effort with respect to sites which may undergo cleanups under other state or federal programs (e.g., under federal or state Orders or federal or state voluntary programs). EPA and the State anticipate that further agreements to avoid duplication of effort may be reached on case by case bases. In all cases, EPA and the State will retain all of their enforcement and inspection rights and authorities, but one agency may agree in general to defer to an action by the other.

Like all other parts of this Memorandum of Agreement, the provisions above are intended to guide EPA and State personnel in carrying out an effective working relationship, but are not meant to restrict the legal rights of either party or to create any rights in persons not parties to this Agreement.

VII. PERMIT ADMINISTRATION

A. EPA

EPA will administer the RCRA permits or portions of permits it has issued to facilities in the State until they expire or are terminated. EPA will be responsible for enforcing the terms and conditions of the Federal permits while they remain in force. EPA will discontinue federal permits issued pursuant to 40 CFR parts 124 and 270 when the State either incorporates the terms and conditions of such federal permits in State RCRA permits or issues State RCRA permits to those facilities.

B. State

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement and to modify, or revoke and reissue, such permits as necessary to require compliance with the amended State Program pursuant to Conn. Gen. Stat. § 22a-6(a), Conn. Gen. Stat. § 22a-449(c) and sections 22a-449(c)-100 through 119 RCSA. The rate at which permits are reviewed, modified, revoked or reissued shall be negotiated under the PPA.

The State shall notify EPA of any permits not equivalent to Federal permit requirements. Except for these non-equivalent permits, once EPA has determined that the State has fulfilled the requirements of 40 CFR 271.13(d), EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 CFR 124.5(d), notify the State that the permit is terminated, and no longer administer those permits or portions of permits for which the State is authorized.

Where the State permit is not equivalent to Federal permit requirements, the State may modify, or revoke and reissue the State permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue a permit equivalent to the Federal permit, EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, EPA will terminate the Federal permit pursuant to 40 CFR 271.8(b)(6) and 124.5(d). EPA will notify the permittee by certified mail of its intent to terminate the Federal permit, and give the permittee 30 days in which to agree or object to termination of the permit.

Once all available administrative remedies have been utilized and fully exhausted, provided an appeal is authorized by law, a final decision of DEP regarding a permit may be appealed to Superior Court.

VIII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting an inspection of a generator, transporter or facility, EPA will normally give the State at least seven days notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). If the State performs a compliance inspection and submits to EPA a report and data relevant thereto within that time, no EPA inspection will be made, unless EPA deems the State report and data to be inadequate or for other good cause. In case of an imminent hazard to human health and the environment, EPA may shorten or waive the notice period. EPA and the State may agree to a longer period of time in order to allow the State an opportunity to conduct a joint inspection with EPA, or if agreed, an inspection in lieu of EPA.

The frequency of EPA oversight and training inspections will be specified in the PPA. The number or percentage of the State's compliance inspections on which EPA will accompany

the State will be specified in the PPA, or on an as needed basis.

This Agreement is not meant to restrict or limit EPA's oversight and enforcement authorities under RCRA. Any discussion of EPA or State roles and responsibilities is intended to guide EPA and State personnel in carrying out an effective partnership, but is not meant to make the State an EPA agent for purposes of enforcement, or to restrict or limit EPA's direct enforcement authority under RCRA. EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). In particular, EPA may take enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State. EPA will promptly notify the State of its determination and agrees to meet with the State to discuss appropriate resolution. Prior to issuing a compliance order under section 3008(a), EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

EPA maintains authority to bring action and may take action, after notification to the State, under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the Regional Administrator, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

EPA will promptly notify the State of any information submitted by the public concerning the mismanagement of hazardous waste in the State of Connecticut.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements.

Compliance monitoring activities and priorities shall be consistent with all applicable Federal requirements and with the State's Program Description and will be negotiated in the PPA.

The State agrees to take timely and appropriate enforcement action in accordance with the PPA against persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections (except for violations where EPA has agreed to take the lead on enforcement). The State will maintain procedures for receiving and ensuring proper consideration or information about violations submitted by the public.

The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved.

IX. PUBLIC AVAILABILITY OF INFORMATION (section 3006(f))

A. General

Section 3006(f) of RCRA, 42 USC § 6926(f), provides that States may be authorized by the Administrator under section 3006 only if the State program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste; and that such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator were carrying out the provisions of this subtitle in the State.

B. Requests for Information

1. To the same extent required by the Federal Freedom of Information Act ("FOIA"), 5 USC § 552(a)(2), the State agrees to make certain materials available without a formal FOIA request. Examples of such materials include information on DEP's website, state regulations, information prepared for public distribution and similar types of information, but does not include information that is published and offered for sale. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.

2. The State agrees to make reasonable efforts to assist a requestor in identifying records being sought and to help the requestor formulate his or her request.

3. The State agrees to make the fullest possible disclosure of records to the public, subject to the exemptions adopted by the State, which have been determined by EPA to be equivalent to the exemptions under Federal FOIA.

4. If a request for information (or portion thereof) is denied, the State agrees to provide the requestor with the basis for any such denial and an explanation of any appeal procedures.

5. If requested, the state will consider waiving the fees in connection with a request for records from a representative of the press or other communication medium, or from a public interest group. Provided it is authorized under Conn. Gen. Stat. § 1-212 (d), the state will waive the fee in connection with a request for records if the state determines that compliance with a request benefits the general welfare.

6. Pursuant to Conn. Gen. Stat. § 1-210(b)(19), records may be withheld from public disclosure when there are reasonable grounds to believe that disclosure may result in a safety risk, except if the records are requested by a law enforcement agency, in which case the records shall be disclosed. These records are specified in Conn. Gen. Stat. § 1-210(b)(19) and may include emergency plans and emergency recovery and response plans or other records relating to facilities and sites used for the treatment, storage and disposal of hazardous waste. Pursuant to section 1-210(d), whenever DEP has reasonable grounds to believe that disclosure of the afore-mentioned records may result in a safety risk it must notify the State Commissioner of Public Works. Whenever DEP provides such notification to the Commissioner of Public Works, notice shall also be provided to EPA. If requested by EPA, DEP shall consult with EPA regarding striking the proper balance

between informing the public and any safety risks (including protecting against terrorism) and what if any recommendation should be made to the state Department of Public Works. The State Commissioner of Public Works will determine whether or not to release a record. EPA will be promptly informed of any such determination. EPA will notify DEP when and if it determines that the denial of a request for documents covered by section 1-210(b)(19) may be contrary to the requirements of RCRA section 3006(f), 42 USC § 6926(f).

C. Confidentiality of Business Information

If a person claims that a record qualifies as a trade secret, or makes a similar claim of confidentiality, and a request is made to produce any such record, the State agrees that it will promptly notify the requestor about any claimed exemptions from disclosure. In addition, the State will inform the requestor that it will make a determination about whether the requested records are or are not exempt from disclosure. The State will also notify the requestor of its final determination.

D. Oversight

1. The State agrees to keep a log of denials of requests for information (or a file containing copies of denial letters sent to requesters) which, if requested, will be made available to EPA during the State review.

2. The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f), 42 USC § 6926(f).

STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Arthur J. Roque, Jr., Commissioner

SIGNATURE:_____

DATE:_____

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 1 - NEW ENGLAND

BY: Robert W. Varney, Regional Administrator

SIGNATURE:_____

DATE:____